APPENDIX.

Excerpts from Cases Cited.

In Margolies *v.* Kleidman, 266 Fed. 203 (2 C. C. A.), at page 204, the court said:

"Indeed the act itself defines 'discharge' to mean a 'release' from provable debts other than those excepted by the statutes."

In Durfee Trust Co. *v.* Steiger, 296 Mass. 136, the indorser of a note contended that the discharge of the corporate maker in reorganization proceedings under Section 77-B of the Bankruptcy Act, was effected not by operation of law but by the voluntary act of the plaintiff in the action. The court held:

"Trust company's acceptance of a plan for reorganization of corporate maker of a note, payable to such company's order, under Bankruptcy Act, with reservation of right to recourse against indorser, in consideration of certain percentage of its claim, held not to discharge indorser."

In Stoll *v.* Gottlieb, 305 U. S. 165, the court held:

"In a proceeding to reorganize a corporation under Section 77-B of the Bankruptcy Act, where the plan of reorganization contains an express provision cancelling the liability of the guarantor, of the debts of the debtor, and after a trial is had in the District Court on the objection of a creditor to the cancellation of the liability of the guarantor the court confirms the plan and a new appeal is taken, the decree is binding."

In Ex Parte Harding, 219 U. S. 363, 369, the court held:

"The doctrine that a court which has general jurisdiction over the subject matter and the parties to a cause is competent to decide questions arising as to its jurisdiction, and therefore that such decisions are not open to collateral attack, has been so often expounded (see Dowell *v.* Applegate, 152 U. S. 327, 337 and cases cited) and has been so

recently applied (Hine *v.* Morse, 218 U. S. 493), that it may be taken as elementary and requiring no further reference to authority."

Articles of Constitution Involved.

Article I, Section 8, Subsec. Fourth of the Constitution vests Congress with the power "to establish * * * uniform laws on the subject of bankruptcies throughout the United States."

Article III, Section 2, of the Constitution provides:

"(First) The judicial power shall extend to all cases, in law or equity, arising under this Constitution, the laws of the United States, * * *."

Article IV, of the Constitution provides:

"Section 1. Full faith and credit shall be given in each State to the public Acts, records and judicial proceedings of every other State. And the Congress may, by general laws prescribe the manner in which such Acts, records and proceedings shall be proved, and the effect thereof."

Statutes Involved.

U. S. C. 1926, Title 11. Ch. 1, Sec. 1 (8), p. 24 (Bankruptcy Act, Sec. 1 (8)):

"* * * 'courts of bankruptcy' shall include the district courts of the United States. * * *"

U. S. C. 1926, Title 11, Ch. 1, Sec. 1 (12), p. 24 (Bankruptcy Act, Sec. 1 (12)):

"* * * (12) "discharge" shall mean the release of a bankrupt from all of his debts which are provable in bankruptcy, except such as are excepted by this Act;"

U. S. C. 1926, Title 11, Ch. 2, Sec. 11, p. 43 (Bankruptcy Act, Sec. 2):

"The courts of bankruptcy as defined in the previous chapter, namely the district courts of the United States in the several States, * * * are hereby made courts of

bankruptcy, and are hereby invested, within their respective territorial limits as established on July 1, 1898, or as they may be thereafter changed, with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceeding * * *, to * * * (15) make such orders, issue such process, and enter such judgments in addition to those specifically provided for as may be necessary for the enforcement of the provisions of this title; * * *"

U. S. C. 1934, Title 11, Ch. 3, Sec. 34, p. 143 (Bankruptcy Act, Sec. 16):

"The liability of a person who is a co-debtor with, or guarantor or in any manner a surety for a bankrupt shall not be altered by the discharge of such bankrupt."

U. S. C. 1934, Title 11, Ch. 3, Sec. 35, p. 150 (Bankruptcy Act, Sec. 17):

"A discharge in bankruptcy which releases the bankrupt from all provable debts except those enumerated in the Act."

U. S. C., 1934, Title 11, Ch. 8, Sec. 206, p. 1057 (Sec. 77-A, Bankruptcy Act):

"In addition to the jurisdiction exercised in voluntary and involuntary proceedings to adjudge persons bankrupt, Courts of Bankruptcy shall exercise original jurisdiction in proceedings for relief of debtors as provided in Section 77-B of this Act."

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (a) p. 1057, (Sec. 77-B (a), Bankruptcy Act):

"Any corporation which could become a bankrupt under Section 22 of this title, * * * may file a petition, * * * stating the requisite jurisdictional facts under this section; * * *. Upon the filing of such a petition or answer the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition or answer complies with this section and has been filed

in good faith, or dismissing it. If the petition or answer is so approved, * * * the court in which such order approving the petition or answer is entered * * * shall have and may exercise all the powers, not inconsistent with this section, which a federal court would have had it appointed a receiver in equity of the property of the debtor by reason of its inability to pay its debts as they mature. * * *"

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (b), p. 1059 (Sec. 77-B (b), Bankruptcy Act):

"A plan of reorganization within the meaning of this section (1) shall include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise: (2) may include provisions modifying or altering the rights of stockholders generally, or of any class of them, either through the issuance of new securities of any character or otherwise; * * * (9) shall provide adequate means for the execution of the plan, which may include * * * the * * * modification of liens, indentures, or other similar instruments, the curing or waiving of defaults, * * * and the issuance of securities of either the debtor or any such corporation or corporations, * * * in exchange for existing securities, or in satisfaction of claims or rights, * * *. (10) may deal with all or any part of the property of the debtor and may include any other appropriate provisions not inconsistent with this section * * *. The term "claims" includes debts, securties, other than stock, liens or other interest of whatever character."

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (g), p. 1067 (Sec. 77-B (g), Bankruptcy Act):

"Upon such confirmation the provisions of the plan and of the order of confirmation shall be binding upon (1) the debtor, (2) all stockholders thereof, including those who have not, as well as those who have, accepted it, and (3) all creditors, secured or unsecured, whether or not affected by the plan, and whether or not their claims shall have been

filed, and, if filed, whether or not approved, including creditors who have not, as well as those who have, accepted it."

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (h), p. 1067 (Sec. 77-B (h), Bankruptcy Act):

"Upon final confirmation of the plan the debtor * * * shall have full power and authority to and shall put into effect and carry out the plan and order of the judge relative thereto under and subject to the supervision and control of the judge * * *."

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (j), p. 1068 (Sec. 77-B (j), Bankruptcy Act):

"A certified copy of the final decree or of an order confirming a plan of reorganization, or of any other decree or order entered in a proceeding under this section, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the decree or order was made."

U. S. C., 1934, Title 11, Ch. 8, Sec. 207 (o), p. 1070 (Sec. 77-B (o), Bankruptcy Act):

"In proceedings under this section and consistent with the provisions thereof, the jurisdiction and powers of the court, the duties of the debtor and the rights and liabilities of creditors, and of all persons with respect to the debtor and its property, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor's petition or answer was approved."